

Interim compensation is a measure of social justice

IF death or permanent disability of any person occurs in an accident arising out of the use of a motor vehicle, its owner is liable under section 140 of the Motor Vehicles Act, 1988, to pay compensation (Rs 50,000 in the case of death), irrespective of whether there was any fault on his part. If more than one vehicle is involved in the accident, the owners of those vehicles are jointly and severally liable. Chapter 10 of the Motor Vehicles Act which contains section 140 to 144, is a departure from this normal rule that in order to fasten a person with liability to pay compensation, any wrongful act, neglect or default on his part is to be proved. Chapter Ten deals with 'liability without fault'. A claimant for compensation need not plead and establish that the death or permanent disability in respect of which compensation is claimed, was due to any wrongful act, neglect or default of the owner.

Similarly, any wrongful Act, neglect or default on the part of the accident victim cannot also defeat a claim for compensation. So also, the quantum of compensation cannot be reduced on the grounds that the accident victim was responsible for his death or permanent disability.

This right to claim compensation is in addition to the right to claim compensation under other provisions of the Act. To get compensation under section 140 in respect of such death or disability, the claimant needs to state only that the death or permanent disability of a victim has resulted from an accident arising out of the use of a motor vehicle.

When the tribunal is satisfied with this requirement it can direct the owner or owners to pay compensation. It need not go into the question whether the accident was due to any wrongful act, neglect or default of the owner or driver of the vehicle, nor was it due to any such act or the victim.

The court also need not identify at this stage all the vehicles involved because the liability under the Act is joint and several. When the owner of one of the vehicles involved in the accident is identified the tribunal gets the power to order compensation under section 140 making such owner liable to pay the compensation. What is

embodied in section 140, therefore, is a modern measure of social justice in order to protect and preserve the socio-economic life of the person who approaches the tribunal for compensation in respect of death or disability without pleading and proof.

This interim award of compensation serves two causes: firstly it is a measure of instant security to the victims or their family members and secondly it is a measure of economic aid to them to approach the courts to obtain full compensation. The access to justice is thus guaranteed to the claimants to seek compensation in respect of death or disability.

Access to justice is an integral part of social justice. While deciding a petition under section 140 of the Act, the tribunal as well as the courts shall not forget the enshrining principle of Access to Justice

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behind this legislature measure. What is contained in Chapter Ten is a clear legislative mandate in favour of Access to Justice theory. These were the reasons a Division Bench of the Kerala High Court consisting of Justice P A Mohammed and Justice G Sivarajan, to dismiss a batch of Miscellaneous First Appeals (MFA) filed by the Oriental Insurance Company Limited challenging interim awards passed by Motor Accidents Claims Tribunal, Mavelikkara, in favour of the legal heirs of persons who died in the train-bus collision at Mampra-Alummood junction on May 14, 1996. (MFAs 1404, 1408 and 1409 of 1997)

It was argued by the insurance company that since the accident had occurred as a result of the collision between a vehicle and a train, Southern Railway is also liable for compensation under section 140. The court said the liability of the railway need not be determined while passing an interim award. Interim award could be passed as one of the vehicles involved in the accident had been identified. ●